

HOUSE BILL NO. 305

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Ransone)

A BILL to amend and reenact §§ 2.2-106, 2.2-2905, and 24.2-102 of the Code of Virginia, relating to State Board of Elections; Commissioner of Elections.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-106, 2.2-2905, and 24.2-102 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-106. Appointment of agency heads; disclosure of resumes; severance.**

A. Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

- 1. Executive Director of the Virginia Port Authority;
- 2. Director of the State Council of Higher Education for Virginia;
- 3. Executive Director of the Department of Wildlife Resources;
- 4. Executive Director of the Jamestown-Yorktown Foundation;
- 5. Executive Director of the Motor Vehicle Dealer Board;
- 6. Librarian of Virginia;
- 7. Administrator of the Commonwealth's Attorneys' Services Council;
- 8. Executive Director of the Virginia Housing Development Authority; ~~and~~
- 9. Executive Director of the Board of Accountancy; and
- 10. Commissioner of Elections of the Department of Elections.

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the

26 Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have  
27 the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

28 B. As part of the confirmation process for each administrative head and Secretary, the Secretary  
29 of the Commonwealth shall provide copies of the resumes and statements of economic interests filed  
30 pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and  
31 Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days  
32 of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1  
33 through the regular session of that year, copies shall be provided to the chairs within seven days of the  
34 appointment. Each appointee shall be available for interviews by the Committees on Privileges and  
35 Elections or other applicable standing committee. For the purposes of this section and § 2.2-107, there  
36 shall be a joint subcommittee of the House of Delegates and Senate Committees on Privileges and  
37 Elections consisting of five members of the House Committee and three members of the Senate Committee  
38 appointed by the respective chairs of the committees to review the resumes and statements of economic  
39 interests of gubernatorial appointees. The members of the House of Delegates shall be appointed in  
40 accordance with the principles of proportional representation contained in the Rules of the House of  
41 Delegates. No appointment confirmed by the General Assembly shall be subject to challenge by reason of  
42 a failure to comply with the provisions of this subsection pertaining to the confirmation process.

43 C. For the purpose of this section, "agency" includes all administrative units established by law or  
44 by executive order that are not (i) arms of the legislative or judicial branches of government; (ii)  
45 institutions of higher education as classified under §§ 22.1-346, 23.1-1100, 23.1-3210, and 23.1-3216;  
46 (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation  
47 districts; and (iv) assigned by law to other departments or agencies, not including assignments to  
48 secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

49 D. The resumes and applications for appointment submitted by persons who are appointed by the  
50 Governor pursuant to this section shall be available to the public upon request.

51 E. Severance benefits provided to any departing agency head, whether or not appointed by the  
52 Governor, shall be publicly announced by the appointing authority prior to such departure.

53           **§ 2.2-2905. Certain officers and employees exempt from chapter.**

54           The provisions of this chapter shall not apply to:

- 55           1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 56           2. Officers and employees of the Supreme Court and the Court of Appeals;
- 57           3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
- 58           house thereof is required or not;
- 59           4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 60           5. Members of boards and commissions however selected;
- 61           6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
- 62           accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
- 63           notaries public;
- 64           7. Officers and employees of the General Assembly and persons employed to conduct temporary
- 65           or special inquiries, investigations, or examinations on its behalf;
- 66           8. The presidents and teaching and research staffs of state educational institutions;
- 67           9. Commissioned officers and enlisted personnel of the National Guard;
- 68           10. Student employees at institutions of higher education and patient or inmate help in other state
- 69           institutions;
- 70           11. Upon general or special authorization of the Governor, laborers, temporary employees, and
- 71           employees compensated on an hourly or daily basis;
- 72           12. County, city, town, and district officers, deputies, assistants, and employees;
- 73           13. The employees of the Virginia Workers' Compensation Commission;
- 74           14. The officers and employees of the Virginia Retirement System;
- 75           15. Employees whose positions are identified by the State Council of Higher Education and the
- 76           boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown
- 77           Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New
- 78           College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and

79 approved by the Director of the Department of Human Resource Management as requiring specialized  
80 and professional training;

81 16. Employees of the Virginia Lottery;

82 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing  
83 and service industries who have a human resources classification of industry worker;

84 18. Employees of the Virginia Commonwealth University Health System Authority;

85 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans  
86 for such employees shall be subject to the review and approval of the Board of Visitors of the University  
87 of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia  
88 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the  
89 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

90 20. In executive branch agencies, except for the Department of Elections, the employee who has  
91 accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving  
92 in the capacity of a confidential assistant for policy or administration. An employee serving in either one  
93 of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed  
94 two employees who serve in this exempt capacity;

95 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
96 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

97 22. Officers and employees of the Virginia Port Authority;

98 23. Employees of the Virginia College Savings Plan;

99 24. Directors of state facilities operated by the Department of Behavioral Health and  
100 Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a  
101 contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State  
102 Grievance Procedure (§ 2.2-3000 et seq.);

103 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
104 state employees for purposes of participation in the Virginia Retirement System, health insurance, and all  
105 other employee benefits offered by the Commonwealth to its classified employees;

- 106 26. Employees of the Virginia Indigent Defense Commission;
- 107 27. Any chief of a campus police department that has been designated by the governing body of a
- 108 public institution of higher education as exempt, pursuant to § 23.1-809;
- 109 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic
- 110 Beverage Control Authority; and
- 111 29. Officers and employees of the Fort Monroe Authority.

112 **§ 24.2-102. Appointment; terms; Commissioner of Elections; prohibited activities.**

113 A. The State Board of Elections is continued and shall consist of ~~five~~ seven members appointed

114 by the Governor from the qualified voters of the Commonwealth, subject to confirmation by the General

115 Assembly. In the appointment of the Board, representation shall be given to each of the political parties

116 having the highest and next highest number of votes in the Commonwealth for Governor at the last

117 preceding gubernatorial election. ~~Three~~ Four Board members shall be of the political party that cast the

118 highest number of votes for Governor at that election. When the Governor was not elected as the candidate

119 of a political party, representation shall be given to each of the political parties having the highest and next

120 highest number of members of the General Assembly at the time of the appointment and ~~three~~ four Board

121 members shall be of the political party having the highest number of members in the General Assembly.

122 Each political party entitled to an appointment may make and file recommendations with the Governor

123 for the appointment. Its recommendations shall contain the names of at least ~~three~~ five qualified voters of

124 the Commonwealth. Appointments shall be made with due consideration of geographical representation,

125 and no two Board members shall reside in the same congressional district.

126 After the initial staggering of terms, Board members shall serve terms of four years, which shall

127 begin on February 1 of the year of the appointment. Vacancies shall be filled for the unexpired terms. No

128 member shall be eligible for more than two successive four-year terms. A member appointed for an

129 unexpired term may be appointed for the two succeeding four-year terms.

130 Each year the Governor shall designate one Board member to be the chair of the Board and one

131 Board member to be the vice-chair. The chair and vice-chair shall be members of opposite political parties.

132 No member of the Board shall be eligible to offer for or hold an office to be filled in whole or in  
133 part by qualified voters in the Commonwealth. If a member resigns to offer for or hold such office, the  
134 vacancy shall be filled as provided in this section.

135 No member of the Board shall serve as the chairman of a state, local, or district level political party  
136 committee or as a paid or volunteer worker in the campaign of a candidate for nomination or election to  
137 an office filled by election in whole or in part by qualified voters in the Commonwealth.

138 B. ~~The Governor~~ Board shall appoint a Commissioner of Elections, subject to confirmation by the  
139 General Assembly, to head the Department of Elections and to act as its principal administrative officer.  
140 The Commissioner shall be appointed to a term of four years, which shall begin on July 1 of the year  
141 following a gubernatorial election. The Commissioner shall be a qualified voter of the Commonwealth.  
142 Such appointment shall require an affirmative vote of five of the seven Board members. The  
143 Commissioner may be removed by the Board upon an affirmative vote of five of the seven Board  
144 members.

145 The Commissioner shall receive the salary fixed by law. He may employ the personnel required  
146 to carry out the duties required by law and imposed by the Board.

147 The Commissioner shall not be eligible to offer for or hold an office to be filled in whole or in part  
148 by qualified voters in the Commonwealth. His candidacy for or election to such office shall vacate his  
149 position as Commissioner, and ~~the Governor~~ Board shall fill the vacancy for the unexpired term.

150 ~~The Governor~~ Board shall not appoint as Commissioner (i) any person who is the spouse of a  
151 member of the Board or of a person seeking election to an office or holding an elective office that is filled  
152 in whole or in part by qualified voters in the Commonwealth; (ii) any person, or the spouse of any person,  
153 who is the grandparent, parent, sibling, child, or grandchild of a member of the Board; or (iii) any person,  
154 or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a person  
155 seeking election to an office or holding an elective office that is filled in whole or in part by qualified  
156 voters in the Commonwealth. The Commissioner shall submit his resignation to ~~the Governor~~ Board on  
157 the date that any such person files as a candidate for election to an office that is filled in whole or in part  
158 by qualified voters in the Commonwealth.

